

**OFFICE OF THE CHIEF OF POLICE**

**SPECIAL ORDER NO. 10**

**March 19, 2002**

**SUBJECT: RESTRAINING ORDERS - REVISED**

**PURPOSE:** Restraining Orders are issued by courts to control the behavior of persons involved in judicial proceedings. Some orders are temporary in nature, while others are permanent. This Order revises the Department procedure for the entry of information into the Department of Justice Domestic Violence Restraining Order Database System, which includes all types of permanent and temporary Restraining Orders. Additionally, this Order renames the procedure outlined in Department Manual Section 4/216.03 from "Domestic Violence Restraining Orders" to "Restraining Orders" and renames the Domestic Violence Restraining Order Log.

**PROCEDURE:** Restraining Orders (RO) and Temporary Restraining Orders (TRO) include, but are not limited to, Domestic Violence Restraining Orders (DVRO), Emergency Protective Orders (EPO), Orders After Hearing (OAH), Juvenile Orders (JUV), Criminal Protective Orders (CPO), and Temporary Workplace Harassment Orders (WHO). Some of these orders are issued by a criminal court (criminal order), while others are from civil court (civil order). A civil order is as enforceable as a criminal order. If a victim possesses both a criminal and civil order, the criminal order takes precedence over the civil order.

**I. DOMESTIC VIOLENCE RESTRAINING ORDER CONTROL LOG, FORM 15.40 - RENAMED.** The Domestic Violence Restraining Order Control Log, Form 15.40, has been renamed as the Restraining Order Control Log (Control Log), Form 15.40.

**A. Use of Form.** This form is used by the Mail Unit, Records and Identification Division, and Area subpoena control and desk officers to record the receipt of orders including, but not limited to, DVROs, EPOs, OAHs, JUVs, CPOs, and WHOs. This form shall also be used to record any enforcement action taken by the Department pursuant to an order. The Control Log shall be compiled in a three-ring, loose-leaf binder and shall be maintained by the Area Subpoena Control Officer. The Control Log, along with all Restraining Orders, shall be placed in a location accessible to Area uniformed desk personnel and the on-duty watch commander.

**B. Completion.** This form shall be completed as directed.

**C. Distribution.** Distribution of this form has not changed.

**II. MULTI-ORDERS - ENFORCEMENT.** If there is more than one civil order involving the same parties, the officer shall enforce the last order issued. If there are both civil and criminal orders involving the same parties, the officer shall enforce the most recently issued criminal order.

**III. COMPLAINANT IN POSSESSION OF A RESTRAINING ORDER.** When officers are presented with an order in the field or at the Area desk, they shall:

- \* Verify that the order has been certified by the issuing court;

**Note:** A certified copy of an order will bear an ink stamp signed by the deputy clerk of the court documenting authenticity.

- \* Ensure that the order has not expired;
- \* Review the proof of service to ensure it was properly served upon the respondent;

**Note:** For the purposes of this Order, the person being restrained shall be referred to as the "respondent."

- \* Ensure that the Domestic Violence Restraining Orders-Law Enforcement Information Form (Information Form) supplied by the court is completed. If the Information Form has not been completed, the officer shall give the form to the complainant for completion. The Information Form shall then be attached to the order; and,

**Note:** When an order is received in the mail and the Information Form has not been completed, the Subpoena Control Officer shall telephonically contact the complainant and obtain the necessary information for completion of the form.

- \* Forward the Information Form and the proof of service to the Area Subpoena Control Officer.

**IV. WHEN THE DEPARTMENT DOES NOT HAVE A COPY OF THE RESTRAINING ORDER.** When officers discover that the Department does not possess an order that was presented in the field, they shall determine whether the complainant has an extra copy of the order. If so, officers shall request one and deliver it to the Area desk.

**Note:** Area desk personnel are responsible for ensuring that a DR number is obtained and an entry is completed on the Control Log.

Should no additional copy be available, and photocopying is impractical, officers shall promptly notify the Area desk and provide the following information:

- \* Name of complainant;
- \* Address restrained from (if indicated);
- \* Date of issuance;
- \* Date of expiration; and,
- \* Court case number.

Area desk personnel receiving the above information shall record the information in the Control Log.

When unable to obtain a copy of the order, officers shall request the complainant to deliver a copy to the Area desk (or provide one to be photocopied), as soon as possible.

**Note:** No enforcement action may be taken as a result of the information contained on the Control Log. The Control Log is used to assist officers in locating the order within the Department. If an officer cannot locate the order and the complainant does not have a copy of the order, no enforcement action may be initiated by officers pursuant to Penal Code Section 273.6 (Willful and Knowing Violation of a Court Order), or Penal Code Section 166 (Criminal Contempt). If the complainant insists upon making a citizen's arrest, officers shall be guided by Sections 4/216.31, 4/216.32, 4/216.33, and 4/216.34 of the Department Manual.

**V. PROOF OF SERVICE.** An order shall be accepted from the complainant whether or not the proof of service has been completed. The complainant shall be advised that personal service of the order is required before enforcement action

can be taken against the respondent. If a person named in an order has not been served personally with the order, but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

When proof of service is not attached to an otherwise valid order presented to officers in the field, the officers shall contact the Area desk to determine whether other officers of this Department accomplished the proof of service. If prior proof of service cannot be established, officers shall advise the respondent that a valid order is in effect and state its conditions to the respondent. If the complainant has an extra copy of the order, officers shall give it to the respondent.

Officers shall complete the proof of service when:

- \* The complainant is in possession of an incomplete proof of service; and,
- \* The officers advised the respondent of the conditions of the order.

If the respondent is present at the scene, officers shall document how the service of the order was accomplished in the narrative of any crime, arrest, or Domestic Violence Incident Report completed, pursuant to Penal Code Section 13730.

**VI. COMPLAINANT NOT IN POSSESSION OF A RESTRAINING ORDER.**

Officers at the scene of a dispute where a valid order is alleged to exist, but the complaining person does not possess a copy of the order, shall attempt to telephonically verify the existence of the order through the Area desk, the Automated DR Issuance System (ADRIS), and the Department of Justice DVRO Registry. The Registry can be checked through the order system located in the Area's California Law Enforcement Telecommunications System (CLETS).

If an officer cannot locate the order, no enforcement action may be initiated by the officers.

If the officer determines that an order has been issued, but not served, the officer shall immediately notify the

respondent of the terms of the order. Verbal notice of the terms of the order is sufficient notice.

The verbal notice shall be documented in the related crime, arrest or Domestic Violence Incident Report. If no report is required, note the verbal notice in the Daily Field Activities Report (DFAR), Form 15.52. The officer shall also include the name and assignment of the officer notifying the respondent and the case number of the order. Additionally, the officer shall advise the respondent to go to the court to obtain a copy of the complete order.

**VII. RECORDING THE ISSUANCE OF A RESTRAINING ORDER ON A REPORT.**

If a report has been completed and the notification of the existence of an order has been communicated to the respondent, the officer shall record how the service of the order was accomplished in the narrative of the report.

If no report is required, the officer shall provide the name and assignment of the officer notifying the respondent and the case number of the order on the DFAR.

Upon service of the order outside of the court, the officer shall advise the respondent to go to the local court to obtain a copy of the order containing the full terms and conditions of the order.

**VIII. OUT-OF-STATE DOMESTIC VIOLENCE ORDERS.** When an Out-of-State Domestic Violence Order is presented to the officer, the officer shall review it for completeness. If the Out-of-State Domestic Violence Order is complete, then it is considered valid in the State of California. If it is deficient, an EPO should be sought and the EPO guidelines should be followed.

**IX. PEACE OFFICERS NAMED AS RESPONDENTS.** Effective January 1, 2001, the Department of Justice (DOJ) revised the form used to apply for an RO to include a fill-in section if the person to be restrained is a peace officer employed with a specific law enforcement agency.

Therefore, when a subpoena control officer receives an RO that identifies the respondent as a member of a law enforcement agency, the subpoena control officer shall notify his or her commanding officer. The commanding officer shall ensure that a copy of the RO is sent to the Chief of Police of the involved agency. If the respondent

is a member of the Department, the commanding officer shall forward a copy of the RO to the Commanding Officer, Internal Affairs Group.

**AMENDMENTS:** This Order amends Sections 4/216.03, 4/216.04 and 5/15.40.0; and adds Section 5/3.1J-16 of the Department Manual.

**AUDIT RESPONSIBILITY:** The commanding officer of each operations bureau shall monitor compliance with this directive in accordance with Manual Section 0/080.30.

**FORM AVAILABILITY:** The Restraining Order Control Log, Form 15.40, will be available for ordering from the Department of General Services, Distribution Center, in about 90 days, and will be placed on the Department's Local Area Network (LAN). A copy has been attached for duplication and use.

**BERNARD C. PARKS**  
Chief of Police

Attachment

**DISTRIBUTION "A"**